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April 20, 1955
Opinion No. 55-86

REQUESTED BY: Ruffo Espinosa, County Attorney
Santa Cruz County
Nogales, Arizona

OPINION BY: ROBERT MORRISON, The Attorney General
D. Kelly Turner, Assistant Attorney General

QUESTION: Are American citizens residing in Mexico
qualified electors for the City of Nogales,
Arizona?

CONCLUSION: No.

A qualified elector is one who is entitled to vote at any lawful election. The Municipal Charter of Nogales may prescribe the qualifications of a voter at a city election; however, such qualifications must conform to the requirements of the State Constitution.

It is unnecessary to examine the Charter or ordinances of Nogales to determine if an American citizen residing in Mexico may vote in a Nogales municipal election. The question is answered by Article 7, Section 2 of the Constitution of the State of Arizona.

This constitutional mandate requires that a person be a citizen of the United States, of the age of 21 years or over and shall have resided in the state one year immediately preceding such election. There are further provisions not pertinent to the question.

These provisions do not prescribe the qualifications of an elector, but constitute restrictions or limitations upon the power of the legislature or of the charter municipality to provide who shall vote. *AHRENS vs. KERBY*, 44 Ariz 337, 37 P2d 375.

Regardless of what qualifications are imposed upon municipal voters by the municipality, the condition that the person "shall have resided in the state one year immediately preceding such election" may not be changed by ordinance or statute. A person who meets all of the other qualifications of a qualified elector, in that he is an American citizen, over the age of twenty-one years, can read the Constitution in English, unless physically disabled, has purportedly complied with municipal registration laws, and has met all other conditions, if any, is not a qualified elector, unless for one year immediately preceding the election he has resided

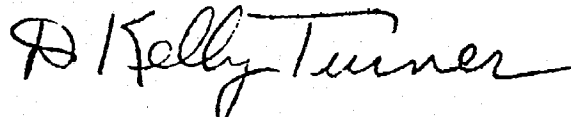
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in Arizona. The fact that the American citizens in question are now, or during the past year, have resided in Mexico, disqualifies them from voting, because they have not met the Constitutional mandate of residence within the geographical limits of the state. See HARRISON vs. LAVERN, 67 Ariz 337, 196 P2d 456.

The only exception permissible to the residence requirement is that contained in Paragraph 3 of Article 7 of the Constitution, which provides that absence "while employed in the service of the United States or while a student at any institution of learning" shall not cause the loss of an established residence. Unless the residents of Mexico come within the Constitutional exceptions, their qualification as an elector of the municipality, if established prior to such residence in Mexico, has been lost by such residence.

ROBERT MORRISON
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